

## **Assembly Bill No. 937**

### **CHAPTER 275**

An act to amend Sections 5535, 5535.1, 5535.2, 5535.3, 5616, and 5640 of, and to add Section 5535.25 to, the Business and Professions Code, relating to architecture.

[Approved by Governor October 5, 2007. Filed with  
Secretary of State October 5, 2007.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 937, Committee on Business and Professions. Architects: landscape architects.

The Architects Practice Act provides for licensing and regulation of persons engaged in the practice of architecture by the California Architects Board. Existing law provides for the licensing of certain persons, as defined, to practice architecture and permits an architect to form a partnership with nonarchitects if certain conditions are met. Existing law requires architects to have responsible control, as defined, over certain aspects of practice. Existing law authorizes a corporation to furnish or supply by contract architectural services by and under the responsible control of a licensed architect or architects. Existing law makes it a crime for an unlicensed person to engage in certain activities related to architecture, for a person to make certain representations, or for a licensee in responsible control of plans, specifications, and instruments of service not to sign off on those documents.

This bill would revise the definition of a person for purposes of the Architects Practice Act to also include a partnership or a professional corporation and would specify that the term includes a general corporation rather than a corporation. The bill would permit an architect to form a business entity or collaborate with a nonarchitect as long as certain conditions are met and would define the terms "business entity" and "collaboration" to include an employer and employee relationship, a joint venture, a partnership, a general corporation, and a consulting relationship, as specified. The bill would additionally revise the definition of "responsible control" to mean control over the content of all architectural instruments of service, rather than control over the content of technical submissions. The bill would permit a corporation to furnish or supply by contract architectural services as long as any architects' professional services are offered and provided under the responsible control of a licensed architect or architects. The bill would declare that its provisions shall not be construed to restrict or limit the scope of practice of a professional engineer or a professional land surveyor who forms a business entity or collaborates with one or more architects or a corporation providing architectural services. Because this

bill would expand the application of certain criminal provisions, it would impose a state-mandated local program.

Existing law provides for the licensure and regulation of landscape architects by the California Architects Board and makes it a misdemeanor for any person to, among other things, engage in the practice of landscape architecture without a valid, unrevoked license from the board. Existing law requires landscape architects to provide customers with detailed written contracts that include specified provisions, including, but not limited to, a description of the procedure that the landscape architect and client will use to accommodate additional services.

This bill would specify exceptions to that written contract requirement, would require that the contract be executed prior to the landscape architect commencing work, except as specified, and would require that the written contract also include a description of the procedure to be used by either party to terminate the contract. The bill would also specify that a written contract includes a contract in electronic form. In addition, this bill would make it a misdemeanor for an unlicensed person to use the stamp of a licensed landscape architect, as specified, or to advertise or put out a device that might indicate to the public that he or she is a licensed landscape architect or qualified to engage in landscape architecture. Because the bill would create new crimes, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 5535 of the Business and Professions Code is amended to read:

5535. As used in this chapter, the word “person” includes any individual, firm, partnership, general corporation, professional corporation, or limited liability partnership, as authorized by the Corporations Code.

SEC. 2. Section 5535.1 of the Business and Professions Code is amended to read:

5535.1. The phrase “responsible control” means that amount of control over the content of all architectural instruments of service during their preparation that is ordinarily exercised by architects applying the required professional standard of care.

SEC. 3. Section 5535.2 of the Business and Professions Code is amended to read:

5535.2. This chapter does not prevent an architect from forming a business entity or collaborating with persons who are not architects, provided that any architects’ professional services that are provided through that entity or collaboration are offered and provided under the responsible control

of an architect, or architects, and in accordance with the provisions of this chapter.

SEC. 4. Section 5535.25 is added to the Business and Professions Code, to read:

5535.25. As used in this chapter, the terms “business entity” and “collaboration” include employer and employee relationships, joint ventures, partnerships, general corporations, and consulting relationships formed by written agreement in which the architect provides immediate and responsible direction of architectural services. For purposes of this section, “immediate and responsible direction” has the same meaning as that term is defined in Section 151 of Title 16 of the California Code of Regulations.

SEC. 5. Section 5535.3 of the Business and Professions Code is amended to read:

5535.3. This chapter does not prevent a corporation from furnishing or supplying by contract architectural services, as long as any architects’ professional services are offered and provided under the responsible control of a licensed architect or architects.

SEC. 6. Section 5616 of the Business and Professions Code is amended to read:

5616. (a) A landscape architect shall use a written contract when contracting to provide professional services to a client pursuant to this chapter. The written contract shall be executed by the landscape architect and the client, or their representatives, prior to the landscape architect commencing work, unless the client knowingly states in writing that work may be commenced before the contract is executed. The written contract shall include, but not be limited to, all of the following:

(1) A description of services to be provided by the landscape architect to the client.

(2) A description of any basis of compensation applicable to the contract, including the total price that is required to complete the contract, and the method of payment agreed upon by both parties.

(3) A notice that reads:

“Landscape architects are licensed by the State of California.”

(4) The name, address, and license number of the landscape architect and the name and address of the client.

(5) A description of the procedure that the landscape architect and client will use to accommodate additional services.

(6) A description of the procedure to be used by either party to terminate the contract.

(b) This section shall not apply if the client knowingly states in writing after full disclosure of this section that a contract that complies with the requirements of this section is not required.

(c) This section shall not apply to any of the following:

(1) Professional services rendered by a landscape architect for which the client will not pay compensation.

(2) An arrangement as to the basis for compensation and manner of providing professional services implied by the fact that the landscape

architect's services are of the same general kind that the landscape architect has previously rendered to and received payment from the same client.

(3) Professional services rendered by a landscape architect to any of the following:

(A) A landscape architect licensed under this chapter.

(B) An architect licensed under Chapter 3 (commencing with Section 5500).

(C) A professional engineer licensed under Chapter 7 (commencing with Section 6700).

(D) A professional land surveyor licensed under Chapter 15 (commencing with Section 8700).

(E) A contractor licensed under Chapter 9 (commencing with Section 7000).

(F) A geologist or geophysicist licensed under Chapter 12.5 (commencing with Section 7800).

(G) A manufacturing, mining, public utility, research and development, or other industrial corporation, if the services are provided in connection with, or incidental to, the products, systems, or services of that corporation or its affiliates.

(H) A public agency.

(d) As used in this section, "written contract" includes a contract that is in electronic form.

SEC. 7. Section 5640 of the Business and Professions Code is amended to read:

5640. It is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) or by imprisonment in the county jail not exceeding six months, or by both that fine and imprisonment, for a person to do any of the following without possessing a valid, unrevoked license as provided in this chapter:

(a) Engage in the practice of landscape architecture.

(b) Use the title or term "landscape architect", "landscape architecture," "landscape architectural," or any other titles, words, or abbreviations that would imply or indicate that he or she is a landscape architect as defined in Section 5615.

(c) Use the stamp of a licensed landscape architect, as provided in Section 5659.

(d) Advertise or put out a sign, card, or other device that might indicate to the public that he or she is a licensed landscape architect or qualified to engage in the practice of landscape architecture.

SEC. 8. This act shall not be construed to restrict or limit the scope of practice of a professional engineer or a professional land surveyor who forms a business entity or collaborates with one or more architects or a corporation providing architectural services.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction,

or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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